

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

_____)	
EMILIANO ERMINI,)	
)	Civil Action No. 12-cv-06100 (LTS) (HJP)
Petitioner,)	
)	
v.)	
)	
VIVIANA VITTORI,)	
)	
Respondent.)	
_____)	

PRETRIAL STATEMENT

Petitioner Emiliano Ermini (“Petitioner” or “Mr. Ermini”) hereby respectfully submit this pre-trial statement.

a. Statement of Legal Issues to Be Decided

Petitioner’s Statement of Legal Issues to Be Decided

The following are issues of law that will need to be decided by the Court:

(i) Whether Daniele and Emanuele Ermini (the “Children”) were unlawfully removed from their habitual residence; or

(ii) Whether the Children were wrongfully retained from their habitual residence; and,

(iii) Whether the children should be returned to Italy, country of habitual residence.

b. Statement of Material Facts Not in Dispute

1. Mr. Ermini is married to Ms. Vittori.

2. Mr. Ermini is an Italian citizen.

3. Ms. Vittori is an Italian citizen.
4. Mr. Ermini is the father of Emanuele Ermini.
5. Mr. Ermini is the father of Daniele Ermini.
6. Ms. Vittori is the mother of Emanuele Ermini.
7. Ms. Vittori is the mother of Daniele Ermini.
8. Emanuele Ermini is an Italian citizen.
9. Daniele Ermini is an Italian citizen.
10. Emanuele Ermini was born on August 23, 2003 and is nine years old.
11. Daniele Ermini was born on May 18, 2005 and is seven years old.
12. Daniele Ermini has been diagnosed with autism.

Witness Lists

Petitioner's Witness List

1. Emiliano Ermini, *c/o* Tosolini, Lamura, Rasile & Toniutti LLP, 70 West 36th Street, 12 Fl., Suite 12A, New York, NY 10018. We expect that Mr. Ermini will testify regarding his parental intention that upon a short-term visit to the United States late 2011 in order to look for potential treatment and care evaluation for Daniele Ermini's autism, his Children return back home, Italy.

2. Viviana Vittori, 53 East Maple Avenue, Suffern, NY 10901. Ms. Vittori, Respondent in this action, temporarily moved to Suffern, New York from Italy with the Children in November 2011. We expect that she will testify regarding: (i) her intention and Mr. Ermini's intention to seek short-term potential treatment and care evaluation in the United States concerning Daniele Ermini's autism; (ii) her U.S. visa (immigration status) situation in the United States; (iii) any source of Vittori's income in the United States and other matters related to the well-being of the Children.

3. Emanuele Ermini, 53 East Maple Avenue, Suffern, NY 10901. Emanuele is Ms. Vittori and Mr. Ermini's nine year old son. He is currently a fourth grade student at the R.P. Connor Elementary School, located at 13 Cypress Road, Suffern, New York, 10901. We expect that Emanuele Ermini will testify regarding his life in Italy, including his academic success, his social and family networks, and his pursuit of extra-curricular activities in Italy.

4. Enzo Ermini, Via Formellonzi 13, VELLETRI ITALY. We expect that Enzo Ermini will testify regarding the wrongful retention or removal of the Children and their life in Italy, including their academic success, their social and family networks, and their pursuit of extra-curricular activities. Further, we expect Enzo Ermini to describe his role as grandfather of the Children and father of Petitioner.

5. Eloisa Ermini, Via Formellonzi 13, VELLETRI ITALY. We expect that Eloisa Ermini will testify regarding the wrongful retention or removal of the Children and their life in Italy, including their academic success, their social and family networks, and their pursuit of extracurricular activities. Further, we expect Eloisa Ermini to describe his role as an aunt of the Children and the sister of Petitioner. Finally, we further expect a description of the medical improvements of Daniele Ermini in Italy.

6. Marcello Russodivito, 5 Danielle Court, Suffern, NY 10901. We expect Mr. Marcello Russodivito to render a testimony regarding Petitioner conduct towards Respondent and Children while in the U. S. and Italy.

7. Nicola Antonucci, Via Bari, 29 Torre a Mare – 70126 Bari – Italy. We expect Dr. Antonucci to render an expert testimony about the cure available Italy for autism's medical treatments, the medical progress in Italy of Daniele Ermini, and the conduct of Petitioner as a father during the medical treatments of Daniele Ermini.

8. Giuseppe Devita, 134 West 58th Street, New York, New York 10019. We expect Mr. Devita, an attorney admitted in Italy, to render testimony about the custody law in Italy and the interpretation of the Italian Court Order of Velletri dated September 24, 2012 concerning joint custody of Petitioner and Respondent.

Petitioner's Exhibit Lists

The parties have attached exhibit lists for all exhibits to be offered at trial. Petitioner's exhibit list is attached as Attachment A. Objections as to admissibility are not noted on the exhibit lists. By letters to the Court dated January 14, 2013, the parties have jointly requested the permission of the Court to submit any stipulations and objections to the Court no later than Friday, January 18th, 2013.

c. Designation of Deposition Testimony to Be Offered at Trial

Petitioner has attached designations of deposition testimony to be offered at trial. Petitioner's designations are attached as Attachment B. Objections as to admissibility are not noted on the designation lists. By letters to the Court dated January 14, 2013, the parties have jointly requested the permission of the Court to submit any stipulations and objections to the Court no later than Friday, January 18th, 2013.

d. Stipulations as to Admissibility of Exhibits and Depositions

The parties have not yet reached any stipulations.

e. Statements as to Whether the Case Is to Be Tried Before a Jury

The parties have agreed that the case is not to be tried before a jury.


f. **Statements Regarding Consent to Trial Before a Magistrate Judge**

Petitioner consents to trial before a district court judge or a magistrate judge, as this court deems necessary.

g. **Party's Estimate of the Time Required for the Presentation of Its Case**

The Court has ordered that Mr. Ermini is allotted seven hours for the presentation of his case and Ms. Vittori is allotted seven hours for the presentation of her case. Emanuele Ermini and Daniele Ermini, together, are allotted one hour.

Dated: January 15, 2013
New York, New York

By: 

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